

**§ 4101 - Registration and bond**

**(a) Registration**

**(1) In general**

Every person required by the Secretary to register under this section with respect to the tax imposed by section 4041 (a) or 4081, every person producing or importing biodiesel (as defined in section 40A (d)(1)) or alcohol (as defined in section 6426 (b)(4)(A)), and every person producing second generation biofuel (as defined in section 40(b)(6)(E)) shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

**(2) Registration of persons within foreign trade zones, etc.**

The Secretary shall require registration by any person which—

(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

(B) holds an inventory position with respect to a taxable fuel in such a terminal.

**(3) Display of registration**

Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.

**(4) Registration of persons extending credit on certain exempt sales of fuel**

The Secretary shall require registration by any person which—

(A) extends credit by credit card to any ultimate purchaser described in subparagraph (C) or (D) of section 6416(b)(2) for the purchase of taxable fuel upon which tax has been imposed under section 4041 or 4081, and

(B) does not collect the amount of such tax from such ultimate purchaser.

**(5) Reregistration in event of change in ownership**

Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).

**(b) Bonds and liens**

**(1) In general**

Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

(A) give a bond in such sum as the Secretary determines appropriate, and

(B) agree to the imposition of a lien—

(i) on such property (or rights to property) of such person used in the trade or business for which the registration is sought, or

(ii) with the consent of such person, on any other property (or rights to property) of such person as the Secretary determines appropriate.

Rules similar to the rules of section 6323 shall apply to the lien imposed pursuant to this paragraph.

**(2) Release or discharge of lien**

If a lien is imposed pursuant to paragraph (1), the Secretary shall issue a certificate of discharge or a release of such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by him) a bond in such sum as the Secretary determines appropriate or the transferor agrees to the imposition of a substitute lien under paragraph (1)(B) in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to discharge or release a lien imposed pursuant to paragraph (1) in connection with a transfer of property not later than 90 days after the date the request for such a discharge or release is made.

**(c) Denial, revocation, or suspension of registration**

Rules similar to the rules of section 4222 (c) shall apply to registration under this section.

**(d) Information reporting**

The Secretary may require—

- (1) information reporting by any person registered under this section, and
- (2) information reporting by such other persons as the Secretary deems necessary to carry out this part.

Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.

**§ 6675 - Excessive claims with respect to the use of certain fuels**

**(a) Civil penalty**

In addition to any criminal penalty provided by law, if a claim is made under section 6416 (a)(4) (relating to certain sales of gasoline), section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

- (1)** Two times the excessive amount; or
- (2)** \$10.

**(b) Excessive amount defined**

For purposes of this section, the term "excessive amount" means in the case of any person the amount by which—

- (1)** the amount claimed under section 6416 (a)(4), 6420, 6421, or 6427, as the case may be, for any period, exceeds
- (2)** the amount allowable under such section for such period.

**(c) Assessment and collection of penalty**

For assessment and collection of penalty provided by subsection (a), see section 6206.

**§ 6416 - Certain taxes on sales and services**

**(a) Condition to allowance**

**(1) General rule**

No credit or refund of any overpayment of tax imposed by chapter 31 (relating to retail excise taxes), or chapter 32 (manufacturers taxes), shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary, that he—

- (A)** has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;
- (B)** has repaid the amount of the tax to the ultimate purchaser of the article;
- (C)** in the case of an overpayment under subsection (b)(2) of this section—
  - (i)** has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article, or
  - (ii)** has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or
- (D)** has filed with the Secretary the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

**(2) Exceptions**

This subsection shall not apply to—

- (A)** the tax imposed by section 4041 (relating to tax on special fuels) on the use of any liquid, and
- (B)** an overpayment of tax under paragraph (1), (3)(A), (4), (5), or (6) of subsection (b) of this section.

**(3) Special rule**

For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term "ultimate purchaser" (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.

**(4) Registered ultimate vendor or credit card issuer to administer credits and refunds of gasoline tax**

**(A) In general**

For purposes of this subsection, except as provided in subparagraph (B), if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101.

**(B) Credit card issuer**

For purposes of this subsection, if the purchase of gasoline described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

- (i) is registered under section 4101,
- (ii) has established, under regulations prescribed by the Secretary, that such person—
- (I) has not collected the amount of the tax from the person who purchased such article, or
- (II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and
- (iii) has so established that such person—
- (I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,
- (II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or
- (III) has otherwise made arrangements which directly or indirectly provides the ultimate vendor with reimbursement of such tax.

If clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such credit or payment.

#### **(C) Timing of claims**

The procedure and timing of any claim under subparagraph (A) or (B) shall be the same as for claims under section 6427 (i)(4), except that the rules of section 6427 (i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor or credit card issuer has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor or credit card issuer are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).

#### **(b) Special cases in which tax payments considered overpayments**

Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

##### **(1) Price readjustments**

###### **(A) In general**

Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216 (e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

###### **(B) Further manufacture**

Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223 (b)(2); but if the price for which such article was sold is readjusted by reason

of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

**(C) Adjustment of tire price**

No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

**(2) Specified uses and resales**

The tax paid under chapter 32 (or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

- (A)** exported;
- (B)** used or sold for use as supplies for vessels or aircraft;
- (C)** sold to a State or local government for the exclusive use of a State or local government;
- (D)** sold to a nonprofit educational organization for its exclusive use;
- (E)** sold to a qualified blood collector organization (as defined in section 7701 (a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood;
- (F)** in the case of any tire taxable under section 4071 (a), sold to any person for use as described in section 4221(e)(3); or
- (G)** in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C), (D), and (E) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), (D), and (E) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041 (a)(1) or 4081 on diesel fuel or kerosene and any tax paid under section 4121. Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met. In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply. In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.

**(3) Tax-paid articles used for further manufacture, etc.**

If the tax imposed by chapter 32 has been paid with respect to the sale of any article (other than coal taxable under section 4121) by the manufacturer, producer, or importer thereof and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if—

- (A)** in the case of any article other than any fuel taxable under section 4081, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—
  - (i)** another article taxable under chapter 32, or
  - (ii)** an automobile bus chassis or an automobile bus body, manufactured or produced by him; or

(B) in the case of any fuel taxable under section 4081, such fuel is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

**(4) Tires**

If—

(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

(i) an automobile bus chassis or an automobile bus body,

(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, or

(iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.

**(5) Return of certain installment accounts**

If—

(A) tax was paid under section 4216 (d)(1) in respect of any installment account,

(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4216 (d)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

**(6) Truck chassis, bodies, and semitrailers used for further manufacture**

If—

(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him, such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

**(c) Refund to exporter or shipper**

Under regulations prescribed by the Secretary the amount of any tax imposed by chapter 31, or chapter 32 erroneously or illegally collected in respect of any article exported to a foreign

country or shipped to a possession of the United States may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount.

**(d) Credit on returns**

Any person entitled to a refund of tax imposed by chapter 31 or 32, paid to the Secretary may, instead of filing a claim for refund, take credit therefor against taxes imposed by such chapter due on any subsequent return. The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081 (e).

**(e) Accounting procedures for like articles**

Under regulations prescribed by the Secretary, if any person uses or resells like articles, then for purposes of this section the manufacturer, producer, or importer of any such article may be identified, and the amount of tax paid under chapter 32 in respect of such article may be determined—

- (1)** on a first-in-first-out basis,
- (2)** on a last-in-first-out basis, or
- (3)** in accordance with any other consistent method approved by the Secretary.

**(f) Meaning of terms**

For purposes of this section, any term used in this section has the same meaning as when used in chapter 31, 32, or 33, as the case may be.

**§ 6427 - Fuels not used for taxable purposes**

**(a) Nontaxable uses**

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

- (1) the amount of tax imposed on the sale of the fuel to him, reduced by
- (2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

**(b) Intercity, local, or school buses**

**(1) Allowance**

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

- (A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

**(2) Reduction in refund in certain cases**

**(A) In general**

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

**(B) Exception for school bus transportation**

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

**(C) Exception for certain intracity transportation**

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

- (i) which is available to the general public, and
- (ii) which is scheduled and along regular routes, but only if such bus is a qualified local bus.

**(D) Qualified local bus**

For purposes of this paragraph, the term "qualified local bus" means any local bus—

- (i) which has a seating capacity of at least 20 adults (not including the driver), and
- (ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

**(3) Limitation in case of nonscheduled intercity or local buses**

Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

**(4) Refunds for use of diesel fuel in certain intercity buses**

With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

- (A) is registered under section 4101, and
- (B) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

**(c) Use for farming purposes**

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) is used on a farm for farming purposes

(within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that "liquid taxable under section 4041" shall be substituted for "gasoline" each place it appears in such paragraph (4)).

**(d) Use by certain aircraft museums or in certain other aircraft uses**

Except as provided in subsection (k), if—

(1)any gasoline on which tax was imposed by section 4081, or

(2)any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter or a fixed-wing aircraft for a purpose described in section 4041(l), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

**(e) Alcohol, biodiesel, or alternative fuel**

Except as provided in subsection (k)—

**(1) Used to produce a mixture**

If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit or the alternative fuel mixture credit with respect to such mixture.

**(2) Alternative fuel**

If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.

**(3) Coordination with other repayment provisions**

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel with respect to which an amount is allowed as a credit under section 6426.

**(4) Registration requirement for alternative fuels**

The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.

**(5) Limitation to fuels with connection to the United States**

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).

**(6) Termination**

This subsection shall not apply with respect to—

(A)any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2011,

(B)any biodiesel mixture (as defined in section 6426(c)(3)) sold or used after December 31, 2013,

(C)except as provided in subparagraph (D), any alternative fuel (as defined in section 6426(d)(2)) sold or used after December 31, 2013,

(D)any alternative fuel (as so defined) involving liquefied hydrogen sold or used after September 30, 2014, and

(E)any alternative fuel mixture (as defined in section 6426(e)(2)) sold or used after December 31, 2011.

**[(f) Repealed. Pub. L. 109-59, title XI, § 11151(a)(1), Aug. 10, 2005, 119 Stat. 1968]**

**[(g) Repealed. Pub. L. 104-188, title I, § 1606(a), Aug. 20, 1996, 110 Stat. 1839]**

**(h) Blend stocks not used for producing taxable fuel**

**(1) Gasoline blend stocks or additives not used for producing gasoline**

Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person

establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.

**(2) Diesel fuel blend stocks or additives not used for producing diesel**

Except as provided in subsection (k), if any diesel fuel blend stock is not used by any person to produce diesel fuel and such person establishes that the ultimate use of such diesel fuel blend stock is not to produce diesel fuel, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such diesel fuel blend stock.

**(i) Time for filing claims; period covered**

**(1) General rule**

Except as otherwise provided in this subsection, not more than one claim may be filed under subsection (a), (b), (c), (d), (h), (l), (m), or (o) by any person with respect to fuel used during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

**(2) Exceptions**

**(A) In general**

If, at the close of any quarter of the taxable year of any person, at least \$750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), (m), and (o) of this section and section 6421 to such person with respect to fuel used during—

(i)such quarter, or

(ii)any prior quarter (for which no other claim has been filed) during such taxable year, a claim may be filed under this section with respect to such fuel.

**(B) Time for filing claim**

No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

**(C) Nonapplication of paragraph**

This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).

**(3) Special rule for mixture credits and the alternative fuel credit**

**(A) In general**

A claim may be filed under subsection (e)(1) by any person with respect to a mixture described in section 6426 or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2)) for any period—

(i)for which \$200 or more is payable under such subsection (e)(1) or (e)(2), and

(ii)which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

**(B) Payment of claim**

Notwithstanding subsection (e)(1) or (e)(2), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

**(C) Time for filing claim**

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

**(4) Special rule for vendor refunds**

**(A) In general**

A claim may be filed under paragraph (4)(C) or (5) of subsection (l) by any person with respect to fuel sold by such person for any period—

(i)for which \$200 or more (\$100 or more in the case of kerosene) is payable under paragraph (4)(C) or (5) of subsection (l), and

(ii)which is not less than 1 week.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under subsections (b)(4), (l)(4)(C)(ii), and (l)(5).

**(B) Time for filing claim**

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

**(j) Applicable laws**

**(1) In general**

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4041 and 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

**(2) Examination of books and witnesses**

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

**(k) Income tax credit in lieu of payment**

**(1) Persons not subject to income tax**

Payment shall be made under this section only to—

(A)the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B)an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

**(2) Exception**

Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (l).

**(3) Allowance of credit against income tax**

For allowances of credit against the income tax imposed by subtitle A for fuel used or resold by the purchaser, see section 34.

**(l) Nontaxable uses of diesel fuel and kerosene**

**(1) In general**

Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any payment made to the ultimate vendor under paragraph (4)(C)(i).

**(2) Nontaxable use**

For purposes of this subsection, the term "nontaxable use" means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.

**(3) Refund of certain taxes on fuel used in diesel-powered trains**

For purposes of this subsection, the term "nontaxable use" includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

(A)the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

(B)so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

**(4) Refunds for kerosene used in aviation**

**(A) Kerosene used in commercial aviation**

In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

- (i)the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and
- (ii)so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

**(B) Kerosene used in noncommercial aviation**

In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

- (i)any tax imposed by subsection (c) or (d)(2) of section 4041, and
- (ii)so much of the tax imposed by section 4081 as is attributable to—

(I)the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(II)so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

**(C) Payments to ultimate, registered vendor**

(i)In general With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(I)is registered under section 4101, and

(II)meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(ii)Payments for kerosene used in noncommercial aviation The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

(I)is registered under section 4101, and

(II)meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

**(5) Registered vendors to administer claims for refund of diesel fuel or kerosene sold to State and local governments**

**(A) In general**

Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.

**(B) Sales of kerosene not for use in motor fuel**

Paragraph (1) shall not apply to kerosene (other than kerosene used in aviation) sold by a vendor—

(i)for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or  
(ii)to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.

**(C) Payment to ultimate, registered vendor**

Except as provided in subparagraph (D), the amount which would (but for subparagraph (A) or (B)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

(i)is registered under section 4101, and

(ii)meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

**(D) Credit card issuer**

For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such amount.

**(m) Diesel fuel used to produce emulsion**

**(1) In general**

Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

**(2) Definitions**

For purposes of paragraph (1)—

**(A) Regular tax rate**

The term "regular tax rate" means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

**(B) Incentive tax rate**

The term "incentive tax rate" means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).

**(n) Regulations**

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

**(o) Payments for taxes imposed by section 4041(d)**

For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

**(p) Cross references**

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

26 C.F.R. § 48.4041-0

Treas. Reg. § 48.4041-0

Code of Federal Regulations Currentness

Title 26. Internal Revenue

Chapter I. Internal Revenue Service, Department of the Treasury

Subchapter D. Miscellaneous Excise Taxes

    ■ Part 48. Manufacturers and Retailers Excise Taxes (Refs & Annos)

    ■ Subpart F. Special Fuels (Refs & Annos)

    ⇒ **§ 48.4041-0 Applicability of regulations relating to diesel fuel after December 31, 1993.**

Sections 48.4041-3 through 48.4041-17 do not apply to sales or uses of diesel fuel after December 31, 1993. For rules relating to the diesel fuel tax imposed by section 4041 after that date, see § 48.4082-4.

[T.D. 8659, 61 FR 10453, March 14, 1996]

SOURCE: T.D. 6505, 25 FR 11217, Nov. 26, 1960, unless otherwise noted.

AUTHORITY: 26 U.S.C. 7805, unless otherwise noted.; Section 48.4052-1 also issued under 26 U.S.C. 4052(g); Section 48.4064-1(b)(3) also issued under 26 U.S.C. 4064(b)(1)(C)(III); Section 48.4064-1(d)(3)(iii) also issued under 26 U.S.C. 4064(d)(1); Section 48.4064-1(d)(5) also issued under 26 U.S.C. 4064(d)(2); Section 48.4081-4 also issued under 26 U.S.C. 4083(a)(2); Section 48.4081-6 also issued under 26 U.S.C. 4081(c); Section 48.4081-7 also issued under 26 U.S.C. 4081(e); Section 48.4082-1 also issued under 26 U.S.C. 4082; Section 48.4082-1T also issued under 26 U.S.C. 4082(a); Section 48.4082-2 also issued under 26 U.S.C. 4082; Section 48.4082-5 also issued under 26 U.S.C. 4082; Section 48.4082-6 also issued under 26 U.S.C. 4082(d); Section 48.4082-7 also issued under 26 U.S.C. 4082(d); Section 48.4101-1 also issued under 26 U.S.C. 4101(a); Section 48.4101-2 also issued under 26 U.S.C. 6071(a); Section 48.4191-1 also issued under 26 U.S.C. 4191; Section 48.4191-2 also issued under 26 U.S.C. 4191(b)(2); Section 48.4221-3(e) also issued under 26 U.S.C. 4221(a); Section 48.6416(b)(2)-2(b) also issued under 26 U.S.C. 6416(b); Section 48.6427-8 also issued under 26 U.S.C. 6427(m); Section 48.6427-9 also issued under 26 U.S.C. 6427(m); Section 48.6427-11 also issued under 26 U.S.C. 6427(m).

NOTES OF DECISIONS

26 C. F. R. § 48.4041-0, 26 CFR § 48.4041-0

26 C.F.R. § 48.4041-15

Treas. Reg. § 48.4041-15

**Code of Federal Regulations Currentness**

Title 26. Internal Revenue

Chapter I. Internal Revenue Service, Department of the Treasury

Subchapter D. Miscellaneous Excise Taxes

Part 48. Manufacturers and Retailers Excise Taxes (Refs & Annos)

Subpart F. Special Fuels (Refs & Annos)

    → **§ 48.4041-15 Sales to States or political subdivisions thereof.**

**(a) Application of exemption.** The taxes imposed by section 4041 do not apply in the case of a sale of any liquid by any person for the exclusive use of any State or any political subdivision thereof, the District of Columbia, or in the case of the use of any liquid by any State or any political subdivision thereof, or the District of Columbia, as a fuel in a motor vehicle, motorboat, or aircraft.

**(b) Evidence required to establish exemption.** Any vendor claiming exemption under this section shall be prepared to produce evidence that will establish the right to exemption from the tax imposed by section 4041. Generally, orders or contracts of a State or a political subdivision thereof, or the District of Columbia, when signed by an authorized officer thereof will be accepted in support of the exemption. However, in the absence of such orders or contracts, a certificate signed by such an authorized officer that the liquid sold was purchased for the exclusive use of a State or political subdivision thereof, or the District of Columbia, will be acceptable. The certificate shall be in substantially the following form:

**Exemption Certificate**

(For use by States and local governments. (section 4041(g)(2) of the Internal Revenue Code).)

Date \_\_\_\_\_, 19 \_\_\_\_.

I hereby certify that I am \_\_\_\_\_ of \_\_\_\_\_ (State or local government) that I am authorized to execute this certificate; and that

(Check applicable type of certificate)

\_\_\_\_\_ the liquid or liquids specified in the accompanying order, or on the reverse side hereof,  
(or)

\_\_\_\_\_ all orders placed by the purchaser for the period commencing \_\_\_\_\_ (Date) and  
ending \_\_\_\_\_ (Date) (period not to exceed 12 calendar quarters) are, or will be, purchased

from \_\_\_\_\_ (Name of vendor) for the exclusive use of \_\_\_\_\_ (Governmental unit) of \_\_\_\_\_ (State or local government).

I understand that the exemption from tax in the case of sales of liquids under this exemption certificate is limited to the sale of articles purchased for the exclusive use of a State, etc. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

Signature \_\_\_\_\_

Address \_\_\_\_\_

[T.D. 7536, 43 FR 13516, March 31, 1978. Redesignated by T.D. 8066, 51 FR 14, Jan. 2, 1986; T.D. 8659, 61 FR 10453, March 14, 1996]

SOURCE: T.D. 6505, 25 FR 11217, Nov. 26, 1960, unless otherwise noted.

AUTHORITY: 26 U.S.C. 7805, unless otherwise noted.; Section 48.4052-1 also issued under 26 U.S.C. 4052(g); Section 48.4064-1(b)(3) also issued under 26 U.S.C. 4064(b)(1)(C)(iii); Section 48.4064-1(d)(3)(iii) also issued under 26 U.S.C. 4064(d)(1); Section 48.4064-1(d)(5) also issued under 26 U.S.C. 4064(d)(2); Section 48.4081-4 also issued under 26 U.S.C. 4083(a)(2); Section 48.4081-6 also issued under 26 U.S.C. 4081(c); Section 48.4081-7 also issued under 26 U.S.C. 4081(e); Section 48.4082-1 also issued under 26 U.S.C. 4082; Section 48.4082-1T also issued under 26 U.S.C. 4082(a); Section 48.4082-2 also issued under 26 U.S.C. 4082; Section 48.4082-5 also issued under 26 U.S.C. 4082; Section 48.4082-6 also issued under 26 U.S.C. 4082(d); Section 48.4082-7 also issued under 26 U.S.C. 4082(d); Section 48.4101-1 also issued under 26 U.S.C. 4101(a); Section 48.4101-2 also issued under 26 U.S.C. 6071(a); Section 48.4191-1 also issued under 26 U.S.C. 4191; Section 48.4191-2 also issued under 26 U.S.C. 4191(b)(2); Section 48.4221-3(e) also issued under 26 U.S.C. 4221(a); Section 48.6416(b)(2)-2(b) also issued under 26 U.S.C. 6416(b); Section 48.6427-8 also issued under 26 U.S.C. 6427(m); Section 48.6427-9 also issued under 26 U.S.C. 6427(m); Section 48.6427-10 also issued under 26 U.S.C. 6427(m); Section 48.6427-11 also issued under 26 U.S.C. 6427(m).

26 C. F. R. § 48.4041-15, 26 CFR § 48.4041-15

6 C.F.R. § 48.4041-17

Treas. Reg. § 48.4041-17

**Code of Federal Regulations Currentness**

Title 26. Internal Revenue

Chapter I. Internal Revenue Service, Department of the Treasury

Subchapter D. Miscellaneous Excise Taxes

↳ Part 48. Manufacturers and Retailers Excise Taxes (Refs & Annos)

↳ Subpart F. Special Fuels (Refs & Annos)

→ **§ 48.4041-17 Tax-free retail sales to certain nonprofit educational organizations.**

**(a) In general.** The taxes imposed by section 4041 do not apply in the case of a sale of any liquid by any person to a nonprofit educational organization (as defined in paragraph (b) of this section) for its exclusive use, or in the case of the use of any liquid by such an organization. In the case of a school operated as an activity of an organization described in section 501(c)(3), as referred to in paragraph (b) of this section, the liquid must be sold for the exclusive use of the school, or the liquid must be used exclusively by the school.

**(b) Definition of nonprofit educational organization.** For purposes of section 4041(g)(4) and this section, the term "nonprofit educational organization" means an organization described in section 170(b)(1)(A)(ii), that is exempt from income tax under section 501(a), whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

**(c) Evidence required to establish tax-free sales to a nonprofit educational organization; general rule.** To establish the right to exemption, the retailer must obtain from the purchaser and retain in its possession a properly executed certificate as set forth in paragraph (d) of this section.

**(d) Forms of exemption certificates.** The following forms of exemption certificates will be acceptable for the purpose of this section and must be adhered to in substance.

**(1)** Form of certificate for exemption from retailers excise taxes for use by a nonprofit educational organization, other than a school operated as an activity of a church or other exempt organization that in itself is not a nonprofit educational organization.

**Exemption Certificate**

(For use by a nonprofit educational organization (other than a school operated as an activity of a church or other exempt organization that in itself is not a nonprofit educational organization)

purchasing articles subject to retailers excise tax for its exclusive use) \_\_, 19\_\_ (Date) I hereby certify that I am \_\_\_\_\_ (Title) of \_\_\_\_\_ (Exempt organization); that I am authorized to execute this certificate; and that the articles specified in the accompanying order or on the reverse side hereof are purchased by such organization exclusively for use in its educational activities.

I understand that this exemption certificate is for use only by a nonprofit educational organization in the tax-free purchase for its exclusive use of articles subject to the retailers excise tax; and it is agreed that if any article purchased tax free under this exemption certificate is used otherwise, such fact will be reported to the retailer from whom the tax-free purchase was made.

The organization claiming exemption under this certificate has received a determination letter (or a ruling) from the Internal Revenue Service holding the organization to be exempt from income tax as an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a) of the Internal Revenue Code (or has received a determination letter (or ruling) under the corresponding provisions of prior revenue laws). The date of such determination letter (or ruling) is \_\_\_\_\_ and such determination letter (or ruling) has not been withdrawn or revoked.

I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

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(Signature of authorized individual)

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(Address)

**(2) Form of certificate for exemption from retailers excise taxes for use by a school operated as an activity of a church or other organization described in section 501(c)(3) that in itself is not an educational organization described in section 170(b)(1)(A)(ii) of the Code:**

Exemption Certificate

(For use by or for a school operated as an activity of a church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, that is not, in itself, an educational organization described in section 170(b)(1)(A)(ii), purchasing articles subject to retailers excise

tax for the exclusive use of the school)-- \_\_, 19\_\_ (Date) I hereby certify that I am \_\_\_\_\_ (Title) of \_\_\_\_\_ (School, church, parish, etc.); that I am authorized to execute this certificate; and that the articles specified in the accompanying order or on the reverse side hereof are purchased by such institution exclusively for use in its educational activities.

I understand that this exemption certificate is for use only by a school operated as an activity of a church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, in the tax-free purchase for its exclusive use of articles subject to the retailers excise tax; or by a church, or other organization in the tax-free purchase of any such article for the exclusive use of its school which qualifies for the exemption; and it is agreed that if any article purchased tax free under this exemption certificate is used otherwise, such fact will be reported to the retailer from whom the tax-free purchase was made.

The school operated as an activity of the church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

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(Signature of authorized individual)

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(Address)

**(e) Frequency of certificates.** Where only occasional sales are made by a retailer to a nonprofit educational organization, as defined in paragraph (b) of this section, a separate exemption certificate should be furnished for each order. However, where sales by the retailer to the educational organization are regularly or frequently made, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificate and proper records of invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

**(f) Prima facie evidence of exempt use.** The exemption certificate procured by the retailer from the purchasing nonprofit educational organization will be acceptable as prima facie evidence that the article is purchased for the exclusive use of such organization.

**(g) Exemption certificate not obtained prior to filing of retailer's excise tax return.** If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the retailer files a return covering taxes due for the period in which the sale was made, the retailer must include the tax on such sale in its return for that period. However, if the certificate is later obtained, a credit may be taken on a subsequent return or a claim for refund of the tax paid on such sale may be filed, within the period of limitation prescribed by section 6511(b) of the Code and§ 301.6511(b)-1 of this chapter.

[T.D. 7536, 43 FR 13516, March 31, 1978. Redesignated by T.D. 8066, 51 FR 14, Jan. 2, 1986; T.D. 8659, 61 FR 10453, March 14, 1996]

SOURCE: T.D. 6505, 25 FR 11217, Nov. 26, 1960, unless otherwise noted.

AUTHORITY: 26 U.S.C. 7805, unless otherwise noted.; Section 48.4052-1 also issued under 26 U.S.C. 4052(g); Section 48.4064-1(b)(3) also issued under 26 U.S.C. 4064(b)(1)(C)(III); Section 48.4064-1(d)(3)(iii) also issued under 26 U.S.C. 4064(d)(1); Section 48.4064-1(d)(5) also issued under 26 U.S.C. 4064(d)(2); Section 48.4081-4 also issued under 26 U.S.C. 4083(a)(2); Section 48.4081-6 also issued under 26 U.S.C. 4081(c); Section 48.4081-7 also issued under 26 U.S.C. 4081(e); Section 48.4082-1 also issued under 26 U.S.C. 4082; Section 48.4082-1T also issued under 26 U.S.C. 4082(a); Section 48.4082-2 also issued under 26 U.S.C. 4082; Section 48.4082-5 also issued under 26 U.S.C. 4082; Section 48.4082-6 also issued under 26 U.S.C. 4082(d); Section 48.4082-7 also issued under 26 U.S.C. 4082(d); Section 48.4101-1 also issued under 26 U.S.C. 4101(a); Section 48.4101-2 also issued under 26 U.S.C. 6071(a); Section 48.4191-1 also issued under 26 U.S.C. 4191; Section 48.4191-2 also issued under 26 U.S.C. 4191(b)(2); Section 48.4221-3(e) also issued under 26 U.S.C. 4221(a); Section 48.6416(b)(2)-2(b) also issued under 26 U.S.C. 6416(b); Section 48.6427-8 also issued under 26 U.S.C. 6427(m); Section 48.6427-9 also issued under 26 U.S.C. 6427(m); Section 48.6427-10 also issued under 26 U.S.C. 6427(m); Section 48.6427-11 also issued under 26 U.S.C. 6427(m).

26 C. F. R. § 48.4041-17, 26 CFR § 48.4041-17

26 C.F.R. § 48.6416(b)(2)-3

Treas. Reg. § 48.6416(b)(2)-3

**Code of Federal Regulations Currentness**

Title 26. Internal Revenue

Chapter I. Internal Revenue Service, Department of the Treasury

Subchapter D. Miscellaneous Excise Taxes

    └ Part 48. Manufacturers and Retailers Excise Taxes (Refs & Annos)

    └ Subpart Q. Refunds and Other Administrative Provisions of Special Application to Retailers and Manufacturers Taxes

    ⇒ **§ 48.6416(b)(2)-3 Supporting evidence required in case of manufacturers tax involving exportations, uses, sales, or resales.**

**(a) Evidence to be submitted by claimant.** No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(2) and § 48.6416(b)(2)-2, of tax under chapter 32 shall be allowed unless the person who paid the tax submits with the claim the evidence required by paragraph (b)(2) of § 48.6416(a)-3 and a statement, supported by sufficient available evidence-

(1) Showing the amount claimed in respect of each category of exportations, uses, sales, or resales on which the claim is based and which give rise to a right of credit or refund under section 6416(b)(2) and § 48.6416(b)(2)-1,

(2) Identifying the article, both as to nature and quantity, in respect of which credit or refund is claimed,

(3) Showing the amount of tax paid in respect of the article or articles and the dates of payment, and

(4) In the case of an overpayment determined under section 6416(b)(2)(A) and paragraph (b) of § 48.6416(b)(2)-2 in respect of an article which was taxable prior to April 1, 1983 under section 4061(a), indicating that, pursuant to section 6416(g), the person claiming a credit or refund possessed at the time that person shipped the article or at the time title to the article passed to the vendee, whichever is earlier, evidence that the article was to be exported to a foreign country or shipped to a possession of the United States, or

(5) In the case of any overpayment other than an overpayment determined under section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)-2, indicating that the person claiming a credit or refund possesses evidence (as set forth in paragraph (b)(1) of this section) that the article has been exported, or has been used, sold, or resold in a manner or for a purpose which gives rise to an overpayment within the meaning of section 6416(b)(2) and § 48.6416(b)(2)-2, or

(6) In the case of an overpayment determined under section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)-2, relating to a tax-paid tire or inner tube sold on or in connection with, or with

the sale of, a second article that has been manufactured, indicating that the person claiming credit or refund possesses (i) evidence (as set forth in paragraph (b)(2) of this section) that the second article has been exported, or has been used or sold as provided in § 48.6416(b)(2)-2(f), and (ii) a statement, executed and signed by the ultimate purchaser of the tire or inner tube, that the ultimate purchaser purchased the tire or inner tube from a person other than the person who paid the tax on the sale of the tire or inner tube.

**(b) Evidence required to be in possession of claimant--(1) Evidence required under paragraph (a)(5)--(i) In general.** The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(5) of this section, must, in the case of an article exported, consist of proof of exportation in the form prescribed in the regulations under section 4221 or must, in the case of other articles sold tax-paid by that person, consist of a certificate, executed and signed by the ultimate purchaser of the article, in the form prescribed in paragraph (b)(1)(ii) of this section. However, if the article to which the claim relates has passed through a chain of sales from the person who paid the tax to the ultimate purchaser, the evidence required to be retained by the person who paid the tax may consist of a certificate, executed and signed by the ultimate vendor of the article, in the form provided in paragraph (b)(1)(iii) of this section, rather than the proof of exportation itself or the certificate of the ultimate purchaser.

**(ii) Certificate of ultimate purchaser.**

(A) The certificate executed and signed by the ultimate purchaser of the article to which the claim relates must identify the article, both as to nature and quantity; show the address of the ultimate purchaser of the article, and the name and address of the ultimate vendor of the article; and describe the use actually made of the article in sufficient detail to establish that credit or refund is due, except that the use to be made of the article must be described in lieu of actual use if the claim is made by reason of the sale or resale of an article for a specified use which gives rise to the overpayment.

(B) If the certificate sets forth the use to be made of any article, rather than its actual use, it must show that the ultimate purchaser has agreed to notify the claimant if the article is not in fact used as specified in the certificate.

(C) The certificate must also contain a statement that the ultimate purchaser understands that the ultimate purchaser and any other party may, for fraudulent use of the certificate, be subject under section 7201 to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(D) A purchase order will be acceptable in lieu of a separate certificate of the ultimate purchaser if it contains all the information required by this paragraph (b)(1)(ii).

**(iii) Certificate of ultimate vendor.** Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person who paid the tax, as provided in paragraph (a)(5) of this section, may be executed with respect to any one or more overpayments by the person which arose under section 6416(b)(2) and § 48.6416(b)(2)-2 by reason of exportations, uses, sales or resales, occurring within any period of not more than 12 consecutive calendar quarters, the beginning and ending dates of which are specified in the certificate.

The certificate must be in substantially the following form:

STATEMENT OF ULTIMATE VENDOR

(For use in claiming credit or refund of overpayment determined under section 6416(b)(2) (other than section 6416(b)(2)(E)) of the Internal Revenue Code.)

The undersigned or the

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(Name of ultimate vendor if other than undersigned) of which the undersigned is (Title), is the ultimate vendor of the article specified below or on the reverse side hereof.

The article was purchased by the ultimate vendor tax-paid and was thereafter exported, used, sold, or resold (as indicated below or on the reverse side hereof).

The ultimate vendor possesses

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(Proof of exportation in respect of the article, or a certificate as to use executed by the ultimate purchaser of the article)

The

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(Proof of exportation or certificate)

(1) is retained by the ultimate vendor, (2) will, upon request, be forwarded to

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(Name of person who paid the tax)

at any time within 3 years from the date of this statement for use by that person to establish that credit or refund is due in respect of the article, and (3) will otherwise be held by the ultimate vendor for the required 3-year period.

According to the best knowledge and belief of the undersigned, no statement in respect of the

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(Proof of exportation or certificate)

has previously been executed, and the undersigned understands that the fraudulent use of this statement may, under section 7201, subject the undersigned or any other party making such fraudulent use to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

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(Signature)

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(Address)

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(Date)

Vendor's invoice	Articles	Date of resale	Quantity	Exported or use made or to be made (specify)
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**(2) Evidence required under paragraph (a)(6)--(i) In general.**--The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(6) of this section, must, in the case of an exportation of the second article, consist of proof of exportation of the second article in the form prescribed in the regulations under section 4221 or must, in other cases, consist of a certificate, executed and signed by the ultimate purchaser of the second article, in the form prescribed in paragraph (b)(2)(ii) of this section. However, the evidence required to be retained by the person who paid the tax may consist of a certificate, executed and signed by the ultimate vendor of the second article, in the form provided in paragraph (b)(2)(iii) of this section, rather than the proof of exportation itself or the certificate of the ultimate purchaser.

**(ii) Certificate of ultimate purchaser.**--The certificate of the ultimate purchaser of the second article must contain the same information as that required in paragraph (b)(1)(ii) of this section, except that the information must be furnished in respect of the second article, rather than the article to which the claims relates.

**(iii) Certificate of ultimate vendor.**--Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person who paid the tax, as provided in paragraph (a)(6) of this section, may be executed with respect to any one or more overpayments by that person which arose under section 6416(b)(2)(E) and § 48.6416(b)(2)-2(f) by reason of exportations, uses, sales, or resales of a second article occurring within any period of not more than 12 consecutive calendar quarters, the beginning and ending dates of which are specified in the certificate. The certificate must be in substantially the following form:

STATEMENT OF ULTIMATE VENDOR

(For use in claiming credit or refund of overpayment determined under section 6416(b)(2)(E), Internal Revenue Code, involving tires or inner tubes sold on or with another article.)

The undersigned or the

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(Name of ultimate vendor of second article if other than undersigned)

of which the undersigned is (Title), is the ultimate vendor of an article, specified below or on the reverse side hereof, on which or with which a tax-paid tire or inner tube was sold.

The ultimate vendor possesses

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(Proof of exportation in respect of the article on which or with which the tire or inner tube was sold, or a certificate as to use of the article executed by the ultimate purchaser of the article)

The

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(Proof of exportation or certificate) (1) is retained by the ultimate vendor, (2) will, upon request, be forwarded to

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(Name of person who paid the tax on the tire or inner tube)

at any time within 3 years from the date of this statement for use in establishing that credit or refund is due in respect of the tire or inner tube, and (3) will otherwise be held by the ultimate vendor for the required 3-year period.

According to the best knowledge and belief of the undersigned, no statement in respect of the

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(Proof of exportation or certificate)

has previously been executed, and the undersigned understands that the fraudulent use of this statement may, under section 7201, subject the undersigned or any other party making such fraudulent use to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

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(Signature)

(Address)

(Date)

Tires or inner tubes (specify and state quantity)	Vendor's invoice on second article	Second article (specify and state quantity)	Date of sale of second article	Exported or use made of or to be made (specify in respect of second article)

**(3) Repayment or consent of ultimate vendor.** If the person claiming credit or refund of an overpayment to which this section applies has repaid, or agreed to repay, the amount of the overpayment to the ultimate vendor or if the ultimate vendor consents to the allowance of the credit or refund, a statement to that effect, signed by the ultimate vendor, must be shown on, or made a part of, the evidence required under this section to be retained by the person claiming the credit or refund. In this regard, see § 48.6416(a)-3(b)(2).

[T.D. 8043, 50 FR 32028, Aug. 8, 1985]

AUTHORITY: 26 U.S.C. 7805, unless otherwise noted.; Section 48.4052-1 also issued under 26 U.S.C. 4052(q); Section 48.4064-1(b)(3) also issued under 26 U.S.C. 4064(b)(1)(C)(iii); Section 48.4064-1(d)(3)(iii) also issued under 26 U.S.C. 4064(d)(1); Section 48.4064-1(d)(5) also issued under 26 U.S.C. 4064(d)(2); Section 48.4081-4 also issued under 26 U.S.C. 4083(a)(2); Section 48.4081-6 also issued under 26 U.S.C. 4081(c); Section 48.4081-7 also issued under 26 U.S.C. 4081(e); Section 48.4082-1 also issued under 26 U.S.C. 4082; Section 48.4082-1T also issued under 26 U.S.C. 4082(a); Section 48.4082-2 also issued under 26 U.S.C. 4082; Section 48.4082-5 also issued under 26 U.S.C. 4082; Section 48.4082-6 also issued under 26 U.S.C. 4082(d); Section 48.4082-7 also issued under 26 U.S.C. 4082(d); Section 48.4101-1 also issued under 26 U.S.C. 4101(a); Section 48.4101-2 also issued under 26 U.S.C. 6071(a); Section 48.4191-1 also issued under 26 U.S.C. 4191; Section 48.4191-2 also issued under 26 U.S.C. 4191(b)(2); Section 48.4221-3(e) also issued under 26 U.S.C. 4221(a); Section 48.6416(b)(2)-2(b) also issued under 26 U.S.C. 6416(b); Section 48.6427-8 also issued under 26 U.S.C. 6427(m); Section 48.6427-9 also issued under 26 U.S.C. 6427(m); Section 48.6427-10 also issued under 26 U.S.C. 6427(m); Section 48.6427-11 also issued under 26 U.S.C. 6427(m).

26 C. F. R. § 48.6416(b)(2)-3, 26 CFR § 48.6416(b)(2)-3

26 C.F.R. § 48.6427-9

Treas. Reg. § 48.6427-9

**Code of Federal Regulations Currentness**

Title 26. Internal Revenue

Chapter I. Internal Revenue Service, Department of the Treasury

Subchapter D. Miscellaneous Excise Taxes

Part 48. Manufacturers and Retailers Excise Taxes (Refs & Annos)

Subpart O. Refunds and Other Administrative Provisions of Special Application to Retailers and Manufacturers Taxes

→ **§ 48.6427-9 Diesel fuel and kerosene; claims by registered ultimate vendors (farming and State use).**

**(a) Overview.** This section provides rules under which certain registered ultimate vendors of taxed diesel fuel and kerosene may claim the income tax credits or payments allowed by section 6427(l)(5)(A). These claims relate to diesel fuel and kerosene sold for use on a farm for farming purposes and by a State. Claims relating to diesel fuel and kerosene used for other nontaxable purposes are made by ultimate purchasers under § 48.6427-8; claims relating to kerosene sold from a blocked pump are made by registered ultimate vendors (blocked pump) under § 48.6427-10; and claims relating to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes are made by registered ultimate vendors (blending) under § 48.6427-11.

**(b) Definitions.** (1) An ultimate vendor, as used in this section, is a person that sells undyed diesel fuel or undyed kerosene to--

(i) The owner, tenant, or operator of a farm for use by such person on a farm for farming purposes (as defined in § 48.6420-4);

(ii) A person other than the owner, tenant, or operator of a farm for use by such person for any of the purposes described in § 48.6420-4(d) (relating to cultivating, raising, or harvesting); or

(iii) Any State for its exclusive use.

(2) A registered ultimate vendor is an ultimate vendor that is registered under section 4101 as an ultimate vendor.

**(c) Conditions to allowance of credit or payment.** A claim for an income tax credit or payment with respect to diesel fuel or kerosene is allowed by section 6427(l)(5)(A) only if--

(1) Tax was imposed by section 4081 on the diesel fuel or kerosene to which the claim relates;

(2) The claimant sold the diesel fuel or kerosene to--

- (i) The owner, tenant, or operator of a farm for use by such person on a farm for farming purposes (as defined in § 48.6420-4);
- (ii) A person other than the owner, tenant, or operator of a farm for use by such person for any of the purposes described in § 48.6420-4(d) (relating to cultivating, raising, or harvesting); or
- (iii) Any State for its exclusive use;

(3) The claimant is a registered ultimate vendor; and

(4) The claimant has filed a timely claim for a credit or payment that contains the information required under paragraph (e) of this section.

(d) **Form of claim.** Each claim for an income tax credit under this section must be made on Form 4136 (or on such other form as the Commissioner may designate) in accordance with the instructions for that form. Each claim for a payment under this section must be made on Form 8849 (or on such other form as the Commissioner may designate) in accordance with the instructions for that form.

(e) **Content of claim--(1) In general.** Each claim for credit or payment under this section must contain the following information with respect to all the diesel fuel or kerosene covered by the claim:

- (i) The total number of gallons.
- (ii) A statement by the claimant that--
  - (A) The diesel fuel or kerosene did not contain visible evidence of dye; or
  - (B) In the case of diesel fuel or kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that fuel.
- (iii) The claimant's registration number.
- (iv) The name and taxpayer identification number of each person that bought diesel fuel or kerosene from the claimant in a transaction described in paragraph (c)(2) of this section and the number of gallons that the claimant sold to that person.

(v) A statement that the claimant--

(A) Has not included the amount of the tax in its sales price of the diesel fuel or kerosene and has not collected the amount of tax from its buyer;

(B) Has repaid the amount of the tax to the ultimate purchaser of the fuel; or

(C) Has obtained the written consent of its buyer to the allowance of the claim.

(vi) A statement that the claimant has in its possession an unexpired certificate described in paragraph (e)(2) of this section and the claimant has no reason to believe any information in the certificate is false.

**(2) Certificate--(i) In general.** The certificate to be provided to the ultimate vendor consists of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (e)(2)(ii) of this section, and contains all information necessary to complete such model certificate. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earlier of the following dates:

(A) The date one year after the effective date of the certificate.

(B) The date a new certificate is provided to the seller.

**(ii) Model certificate.**

**Certificate of Farming Use or State Use**

(To support vendor's claim for a credit or payment under section 6427 of the Internal Revenue Code.)

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Name, address, and employer identification number of vendor

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

Buyer will use the diesel fuel or kerosene to which this certificate relates--(check one)

- On a farm for farming purposes (as defined in § 48.6420-4(c) of the Manufacturers and Retailers Excise Tax Regulations) and Buyer is the owner, tenant, or operator of the farm on which the fuel will be used;
- On a farm (as defined in § 48.6420-4(c)) for any of the purposes described in paragraph (d) of that section (relating to cultivating, raising, or harvesting) and Buyer is a person that is not the owner, tenant, or operator of the farm on which the fuel will be used; or
- For the exclusive use of a State or local government, or the District of Columbia.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here  and enter:

1. Invoice or delivery ticket number \_\_\_\_\_

2. \_\_\_\_\_ (number of gallons)

If this is a certificate covering all purchases under a specified account or order number, check here  and enter:

1. Effective date \_\_\_\_\_

2. Expiration date \_\_\_\_\_ (period not to exceed 1 year after the effective date)

3. Buyer account or order number \_\_\_\_\_

Buyer will provide a new certificate to the vendor if any information in this certificate changes.

If Buyer uses the diesel fuel or kerosene to which this certificate relates for a purpose other than stated in the certificate Buyer will be liable for tax.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing

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Title of person signing

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Name of Buyer

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Employer identification number

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Address of Buyer

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Signature and date signed

**(f) Time and place for filing claim.** For rules relating to the time for filing a claim under section 6427, see section 6427(i). A claim under this section is not filed unless it contains all the information required by paragraph (e) of this section and is filed at the place required by the form.

**(g) Effective date.** This section is applicable with respect to diesel fuel after December 31, 1993, and with respect to kerosene after June 30, 1998.

[T.D. 8659, 61 FR 10464, March 14, 1996; T.D. 8879, 65 FR 17161, March 31, 2000]

AUTHORITY: 26 U.S.C. 7805, unless otherwise noted.; Section 48.4052-1 also issued under 26 U.S.C. 4052(g); Section 48.4064-1(b)(3) also issued under 26 U.S.C. 4064(b)(1)(C)(iii); Section 48.4064-1(d)(3)(iii) also issued under 26 U.S.C. 4064(d)(1); Section 48.4064-1(d)(5) also issued under 26 U.S.C. 4064(d)(2); Section 48.4081-4 also issued under 26 U.S.C. 4083(a)(2); Section 48.4081-6 also issued under 26 U.S.C. 4081(c); Section 48.4081-7 also issued under 26 U.S.C. 4081(e); Section 48.4082-1 also issued under 26 U.S.C. 4082; Section 48.4082-1T also issued under 26 U.S.C. 4082(a); Section 48.4082-2 also issued under 26 U.S.C. 4082; Section 48.4082-5 also issued under 26 U.S.C. 4082; Section 48.4082-6 also issued under 26 U.S.C. 4082(d); Section 48.4082-7 also issued under 26 U.S.C. 4082(d); Section 48.4101-1 also issued under 26 U.S.C. 4101(a); Section 48.4101-2 also issued under 26 U.S.C. 6071(a); Section 48.4191-1 also issued under 26 U.S.C. 4191; Section 48.4191-2 also issued under 26 U.S.C. 4191(b)(2); Section 48.4221-3(e) also issued under 26 U.S.C. 4221(a); Section 48.6416(b)(2)-2(b) also issued under 26 U.S.C. 6416(b); Section 48.6427-8 also issued under 26 U.S.C. 6427(m); Section 48.6427-9 also issued under 26 U.S.C. 6427(m); Section 48.6427-10 also issued under 26 U.S.C. 6427(m); Section 48.6427-11 also issued under 26 U.S.C. 6427(m).

26 C. F. R. § 48.6427-9, 26 CFR § 48.6427-9